

ARKANSAS SUPREME COURT

No. CACR 05-726

NOT DESIGNATED FOR PUBLICATION

HENRY J. BUNCH
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered March 23, 2006

PRO SE MOTION FOR TRANSCRIPT
[CIRCUIT COURT OF WASHINGTON
COUNTY, CR 2004-2659-1]

MOTION DENIED

PER CURIAM

Petitioner Henry J. Bunch was found guilty of aggravated robbery, three counts of attempted capital murder, felon in possession of a firearm, theft by receiving, possession of methamphetamine, possession of pseudoephedrine with intent to manufacture methamphetamine, and simultaneous possession of drugs and a firearm. He was sentenced to 360 months' imprisonment for the aggravated-robbery charge, 300 months for the simultaneous-possession charge, and an aggregate of 480 months on the remaining offenses. The sentences for the aggravated-robbery and simultaneous-possession charges were to run consecutively to each other and the remaining charges were to run concurrently, for a total of 1,140 months' imprisonment. Petitioner appealed the conviction. The Arkansas Court of Appeals affirmed the judgment with the modification that the aggravated-robbery charge must be merged into one of the attempted-capital-murder charges. *Bunch v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (February 15, 2006). Following the decision of the court of appeals, petitioner, who contends that he is indigent, filed the *pro se* motion for transcript now before this court.¹

¹For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment which was lodged in the court of appeals. This court decides motions for transcripts because such motions are considered to be requests for postconviction relief. See *Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981) (*per*

Petitioner requests a copy of, or access to, the transcript lodged on direct appeal, apparently in order to prepare a petition for postconviction relief under Ark. R. Crim. P. 37.1. Petitioner lists a number of claims that we must assume he wishes to incorporate into his Rule 37.1 petition, and that form the bases for his request for the transcript. It is not clear, however, how access to the transcript would further development of these claims for the petition for postconviction relief.

A petitioner is not entitled to access a trial record unless there is a specific point which cannot be raised in a postconviction proceeding without the record or some portion of it. *See Thomas v. State*, 328 Ark. 753, 945 S.W.2d 939 (1997) (*per curiam*). We do not provide a copy of the transcript to facilitate a postconviction proceeding without a showing that the record is necessary and that specific anticipated points cannot be properly raised without access to the transcript. *See id.*

Petitioner provides specific anticipated points, but he does not show how the transcript is necessary or that those points cannot be properly raised without access to the transcript. In other words, petitioner has not alleged that the transcript contains specific documentary evidence that supports any of his claims for postconviction relief. Accordingly, we cannot say that petitioner has shown the required need for the transcript.

It should be noted that when an original action has been filed in this court, the material pertaining to it remains permanently on file with the clerk, unless it is being maintained under seal. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of a material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (*per curiam*). It is well settled that a petitioner is not entitled to photocopying at public expense unless he or she demonstrates some compelling need for *specific* documentary evidence to support an allegation contained in a petition for postconviction relief. *Id.*; *see also Austin v. State*, 287 Ark.

curiam).

256, 697 S.W.2d 914 (1985) (*per curiam*).

Motion denied.